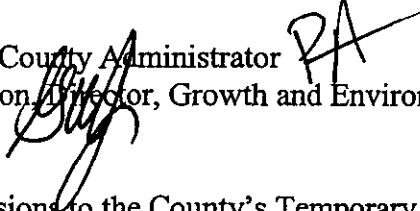


Board of County Commissioners Agenda Request

Date of Meeting: June 10, 2003
Date Submitted: June 5, 2003
To: Honorable Chairman and Members of the Board
From: Parwez Alam, County Administrator 
Gary W. Johnson, Director, Growth and Environmental Management
Department
Subject: Proposed Revisions to the County's Temporary Uses Regulations

Statement of Issue:

To provide the Board with an update on staff's review of the County's temporary uses regulations as they relate to temporary events of public interest, and to request approval to proceed forward with the ordinance adoption process.

Background:

The temporary uses regulations were previously revised to incorporate rules and standards concerning off-site construction staging areas. During that adoption process, staff was directed to review the provisions concerning events which attracted large crowds. Direction for review was based on comments that had been received from citizens and law enforcement concerning the alleged ineffectiveness of the current regulations with regards to implementation and enforcement. Staff has reviewed the temporary uses provisions (Section 10-1112 of the Code of Laws) and has drafted recommended changes to the existing regulations. These recommendations (Attachment #1) were developed with assistance from the County GEM Citizen User Group, the County Attorney's Office, and the Sheriff's Office.

Analysis:

Staff, with assistance from the GEM Citizen User Group and the Sheriff's Office, completed a draft of recommended changes to the County's existing temporary uses regulations. The most substantial change proposed to the existing regulations for temporary uses is for a requirement for a review by the Sheriff's Office to ensure the provision of adequate law enforcement at an event prior to the issuance of a temporary use permit. It was reasoned that such a prior approval would eliminate many of the complaints by neighbors located adjacent to the events. The recommended changes have been incorporated into the existing criteria and standards required for temporary uses under Section 10-1112 of the County's Code of Laws, and are noted in strike through and underline format in Attachment # 1.

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Following is a point-by-point summary of the recommendations of the majority of the GEM Citizens User Group and staff (*italicized*) with regard to the criteria and standards currently in the County's temporary uses regulations.

Section 10-1112(a) *Particular temporary uses permitted.* The following are temporary, nonpermanent uses which may be permitted by the County Administrator or designee and are subject to the following specific regulations and standards, in addition to the other requirements specified in this article. The provisions of this Section are not intended to limit permanent uses not otherwise limited.

These additions are made to clarify that the existing regulations are not intended to affect the standard approval and permitting procedures required for permanent uses.

Section 10-1112(a)(1) Carnival, or circus, festival, concert or outdoor event with more than 500 persons. However, the County Administrator or designee may require a temporary use permit for such activities anticipated to have less than 500 attendees based on its anticipated impact on the public health, safety, and welfare of the residents of the County.

The threshold of 500 persons for requiring a temporary use permit was set to include only the large scale events which may impact County resources, especially law enforcement. This threshold is supported by the Sheriff's Office, and is based on their enforcement experience for temporary events.

- a. Permitted in any district except for the rural and the residential preservation districts.
- b. Maximum length of permit shall be 15 days.
- c. No structure or equipment within 500 feet of any residential property line.
- d. Permitted by the County Administrator or designee after a review for structural soundness and safety.

Subsection (a) above would allow large scale events in the Rural zoning districts. The reasoning is that such events are less of a problem for neighbors as well as responding emergency providers and law enforcement by being located away from more densely populated areas. Subsections (b), (c), and (d) would remain unchanged.

Section 10-1112(a)(2) *Religious tent meeting.*

- a. Permitted in any district, except for the rural and residential preservation districts.
- b. Maximum length of permit shall be 30 days.
- c. No structure or equipment within 500 feet of any residential property line.
- d. Permitted by the County Administrator or designee after a review for structural soundness and safety.

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Subsection (a) above would allow large scale events in the Rural zoning districts. The reasoning is that such events are less of a problem for neighbors as well as responding emergency providers and law enforcement by being located away from more densely populated areas. Subsections (b), (c), and (d) would remain unchanged..

Section 10-1112(a)(3) (3) *Portable classroom facilities.*

- a. ~~Pursuant to F.S. § 235.193, the school board shall submit and the Board of County Commissioners may approve, as temporary uses, portable classroom facilities. The maximum length of the permit shall be 12 months.~~
- b. ~~The application for the temporary use shall be reviewed for adequacy as it relates to environmental concerns, health, safety, and welfare, off-site impacts and effects on adjacent property. The County Administrator or designee shall render a decision within 45 days; if no determination is made within 45 days, it shall be considered an approval of the application (F.S. § 235.193(6)).~~
- c. ~~If the determination is negative, the school board may within 45 days resubmit revised documents. The County Administrator or designee then has 45 days within which to approve the application.~~

This section would be deleted because the County does not review and approve portable classroom facilities for temporary building permits.

Section 10-1112(a)(4) (4 3) *Off-site construction staging areas.*

- a. Temporary off-site construction staging areas shall not be permitted in the Residential Preservation, R-1, R-2, R-3, R-4, R-5, or MH zoning districts. A temporary off-site construction staging area proposed adjacent to the Residential Preservation, R-1, R-2, R-3, R-4, R-5 or MH zoning districts shall provide an opaque buffer fence between the boundary of the proposed site and the adjacent residentially zoned property.
- b. The applicant for a temporary off-site construction staging area permit shall provide the County with a notarized affidavit from the entity contracting the applicant's construction services, indicating the location of the construction project, the scope of the work to be completed by the contractor, and the anticipated time required to complete the construction consistent with an approved construction contract.

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- c. The applicant shall provide the County a site plan of the proposed site which identifies adjacent land uses, on-site environmental features consistent with the provisions of Section 10-346, existing topography, the location of any required landscaping required pursuant to 10-1112(a)(4)a., the location of any proposed temporary structures including septic tank if required, the location of access to the site from a public right-of-way, location of parking, location and type of lighting, and other items as may be appropriate to a specific site. Furthermore, based on the presence of on-site environmental features, the County Administrator or designee may require the applicant to complete the appropriate Environmental Management Act permitting process.
- d. In granting a temporary off-site construction area permit, the County shall require the posting of a security or performance bond, in an amount to be determined by the County, not to exceed the cost of returning the site to preconstruction condition prior to expiration of the permit as required by subsection f. below.
- e. A permit for a temporary off-site construction staging area shall be valid for a period not to exceed 24 months. The applicant may request an extension to the original permit based on the anticipated length of the proposed construction project consistent with the provisions of Section 10-1112(a)(4)b. All other requests for an extension to a previously issued and unexpired temporary off-site construction staging area permit shall be considered on a case- by- case basis and in consideration of the circumstances unique to each request.
- f. Prior to the expiration of the temporary permit, the applicant shall return the site to the predevelopment condition. This shall include, but shall not be limited to, the removal of all structures including closure of the septic system consistent with the guidelines provided by the County Environmental Health Department if applicable, and certification from a licensed professional in the State of Florida that the post development topography on-site is consistent with the predevelopment condition as identified in the site plan pursuant to Section 10-1112(a)(4)c. Failure by the applicant to return the site to the predevelopment condition consistent with the provisions of this section shall constitute a violation of this section, and shall be referred to the County's Code Enforcement Board.

The standards and criteria for off-site construction staging areas should remain as currently stated. This portion was added to the regulations in response to neighborhood complaints concerning the building of temporary construction areas for offices, equipment, and machinery.

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Section 10-1112(b) Additional regulations. A use will be considered temporary if the duration of the use is less than six (6) months, except as otherwise provided in this Section. A carnival or circus, religious tent meeting, tent theater, festival, concert or outdoor event with more than 500 persons and other temporary events of public interest shall be subject to the following:

The threshold for the duration of a temporary use is established based on the permitting experience that shows uses going longer than the six (6) month time frame usually have both on-site and off-site impacts which require permanent structure review and permitting.

- (1) Documentation must be provided from the County Health Department that adequate arrangement for temporary sanitary facilities has been ensured.

This criteria should remain as stated. The applicant can obtain this review and approval at the same time the permit application is submitted.

- (2) No permanent or temporary lighting shall be installed without an electrical permit and inspection.

This criteria should remain as stated. Electrical permits must be obtained to allow inspectors to ensure the temporary site and structures are safe for occupancy.

- (3) All uses shall be confined to those dates specified in the permit.

This criteria should remain as stated. The temporary use cannot continue past the approved termination date in the permit. If the use is allowed to continue past the specified dates, additional review and permitting should be required.

- (4) Hours of operation shall be confined to those specified in the permit.

This criteria should remain as stated. The approved hours of operation specified on the permit (posted at the site of the temporary activity) will assist all regulatory agency inspectors as well as law enforcement personnel if they are required to visit the site.

- (5) The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within ~~30~~ 15 days after the closing event.

The criteria would reduce the clearing of debris from thirty (30) days to fifteen (15) days at the end of the event. The GEM Citizen User Group supports this reduction to mitigate any health issues concerning removal of garbage and trash. The reasoning was that fifteen (15) days provided more than adequate time to perform these tasks.

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- (6) Public parking for the exclusive use of the facility shall be provided. It shall be the responsibility of the applicant to make arrangements to guide traffic to these areas and to prevent patrons from parking unlawfully.

The criteria should remain as stated. The purpose is to prevent illegal parking which will impact neighborhoods and businesses and to prevent the Sheriff's Office from having to divert on-duty officers from their assigned tasks.

- (7) Maximum number of permits issued for a specific parcel or parcels limited to six (6) per year.

This criteria was added to control the amount of large scale events that any one neighborhood or specific location in the County might have to endure within a twelve (12) month period.

- (8) No activity involving the use of any means of sound amplification within 500 feet of a residence shall be permitted between the hours of 11:00 p.m. and 9:00 a.m.

This criteria was added to prevent the noise associated with concerts and other outdoor activities from becoming a nuisance to the nearby residences during late night and early morning hours.

- (9) The applicant shall provide a plan for adequate fire protection as approved by the Tallahassee Fire Prevention Office.

The Tallahassee Fire Prevention Office (FPO) currently reviews a site plan submitted by the applicant for temporary uses. Also, the FPO conducts an inspection of the site and any structures before the permit is issued. This criteria was added to codify this review and approval process.

- (10) The applicant shall provide a plan for adequate law enforcement as approved by the Sheriff's Office, which may include assignment of law enforcement officers as deemed necessary, with the applicant bearing the costs of such officers.

Currently, the promoter of a large scale event does not have to abide by the recommendations of the Sheriff's Office where law enforcement issues are concerned. This lack of criteria can cause law enforcement to become involved only on a reactive basis. This criteria will require adequate planning for security, traffic, and parking by the applicant prior to conducting a large scale event and will serve to mitigate impact to nearby neighborhoods and businesses.

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- (11) The Tallahassee Fire Prevention Office and the Leon County Sheriff's Office shall evaluate each request for a temporary use permit and make recommendations to the County Administrator or designee prior to the issuance of the permit.

As previously stated, the present temporary use regulations do not require a review of the permit request by the Tallahassee Fire Prevention Office, even though such a review is accomplished as a part of the building permit evaluation of structural soundness and safety. However, review by the Sheriff's Office is not required as a standard criteria in reviewing the permit request. The addition of this criteria will codify the review for both a fire safety plan and an adequate plan for law enforcement before a temporary uses permit can be issued.

- (12) The applicant shall certify that the County is held harmless for any liability associated with the temporary use or activity as a part of the temporary use permit application.

In order to provide a high level of customer service, a list of applicant statements certifying compliance is accepted and made a part of the application for temporary uses. This criteria would only require such a statement, which would become a part of the application.

- (13) Any temporary permit issued pursuant to the provisions of this section shall be revoked by the County Administrator or designee and the event closed by the Sheriff's Office immediately upon discovery that the applicant is in violation of the permit or any condition of permit approval.

The current regulations do not provide the Sheriff's Office the capability to close an event if violations of the permit occur. This complicates situations where events begin on weekends. Without having to wait for the following workday after the weekend, the Sheriff's Office can immediately close an event in violation of its permit subsequent to the permit being revoked by the County.

- (14) If any temporary permit issued pursuant to the provisions of this section is revoked, the County Administrator or designee may use that violation as grounds for denial of future permits to an applicant.

This criteria is added to allow permits from being issued to applicants which have refused to follow the rules and regulations in the past and have had their permit revoked.

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Options:

1. Authorize staff to present the proposed revisions to the Planning Commission for a Comprehensive Plan consistency determination, and schedule the required Public Hearings to consider adoption of the recommended revisions to the County's Temporary Uses Regulations.
2. Do not authorize staff to present the proposed revisions to the Planning Commission for a Comprehensive Plan consistency determination, and schedule the required Public Hearings to consider adoption of the recommended revisions to the County's Temporary Uses Regulations.
3. Board direction.

Recommendation:

Option #1.

Attachments:

1. Proposed Amendments to Section 10-1112 of the Land Development Code

PA/GWJ/DM

ORDINANCE NUMBER _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, RELATING TO TEMPORARY USES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA that:

Section 1. Section 10-1112, of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

Sec. 10-1112. Temporary uses.

(a) *Particular temporary uses permitted.* The following are temporary, nonpermanent uses which may be permitted by the County Administrator or designee and are subject to the following specific regulations and standards, in addition to the other requirements specified in this article. The provisions of this Section are not intended to limit permanent uses not otherwise limited.

(1) Carnival, or circus, festival, concert or outdoor event with more than 500 persons. However, the County Administrator or designee may require a temporary use permit for such activities anticipated to have less than 500 attendees based on its anticipated impact on the public health, safety, and welfare of the residents of the County.

- a. Permitted in any district except for the ~~Rural and Residential Preservation~~ districts.
- b. Maximum length of permit shall be 15 days.
- c. No structure or equipment within 500 feet of any residential property line.
- d. Permitted by the County Administrator or designee after a review for structural soundness and safety.

(2) *Religious tent meeting.*

- a. Permitted in any district, except for the ~~Rural and Residential Preservation~~ districts.
- b. Maximum length of permit shall be 30 days.
- c. No structure or equipment within 500 feet of any residential property line.

- d. Permitted by the County Administrator or designee after a review for structural soundness and safety.

(3) *Portable classroom facilities:*

- a. Pursuant to F.S. § 235.193, the school board shall submit and the Board of County Commissioners may approve, as temporary uses, portable classroom facilities. The maximum length of the permit shall be 12 months.
- b. The application for the temporary use shall be reviewed for adequacy as it relates to environmental concerns, health, safety, and welfare, off-site impacts and effects on adjacent property. The County Administrator or designee shall render a decision within 45 days; if no determination is made within 45 days, it shall be considered an approval of the application (F.S. § 235.193(6)).
- c. If the determination is negative, the school board may within 45 days resubmit revised documents. The County Administrator or designee then has 45 days within which to approve the application.

(4) *Off-site construction staging areas.*

- a. Temporary off-site construction staging area shall not be permitted in the Residential Preservation, R-1, R-2, R-3, R-4, R-5, or MH zoning districts. A temporary off-site construction staging area proposed adjacent to the Residential Preservation, R-1, R-2, R-3, R-4, R-5 or MH zoning districts shall provide an opaque buffer fence between the boundary of the proposed site and the adjacent residentially zoned property.
- b. The applicant for a temporary off-site construction staging area permit shall provide the County with a notarized affidavit from the entity contracting the applicant's construction services indicating the location of the construction project, the scope of the work to be completed by the contractor, and the anticipated time required to complete the construction consistent with an approved construction contract.
- c. The applicant shall provide the County a site plan of the proposed site which identifies adjacent land uses, on-site environmental features consistent with the provisions of Section 10-346, existing topography, the location of any required landscaping required pursuant to Section 10-1112(a)(4)a., the location of any proposed temporary structures including septic tank if required, the location of access to the site from a public right-of-way, location of parking, location and type of lighting, and other items as may be appropriate to a specific site. Furthermore, based on the presence of on-site environmental features, the county administrator or designee may require the applicant to complete the appropriate Environmental Management Act

permitting process.

d. In granting a temporary off-site construction area permit, the County shall require the posting of a security or performance bond, in an amount to be determined by the county, not to exceed the cost of returning the site to preconstruction condition prior to expiration of the permit as required by subsection f. below.

e. A permit for a temporary off-site construction staging area shall be valid for a period not to exceed 24 months. The applicant may request an extension to the original permit based on the anticipated length of the proposed construction project consistent with the provisions of Section 10-1112(a)(4)b. All other requests for an extension to a previously issued and unexpired temporary off-site construction staging area permit shall be considered on a case-by-case basis and in consideration of the circumstances unique to each request.

f. Prior to the expiration of the temporary permit the applicant shall return the site to the predevelopment condition. This shall include, but shall not be limited to, the removal of all structures including closure of the septic system consistent with the guidelines provided by the County Environmental Health Department if applicable, and certification from a licensed professional in the State of Florida that the post development topography on-site is consistent with the predevelopment condition as identified in the site plan pursuant to section 10-1112(a)(4)c. Failure by the applicant to return the site to the predevelopment condition consistent with the provisions of this section shall constitute a violation of this section, and shall be referred to the County's Code Enforcement Board.

(b) Additional regulations. A use will be considered temporary if the duration of the use is less than six (6) months, except as otherwise provided in this Section. A carnival or circus, religious tent meeting, tent theater, festival, concert or outdoor event with more than 500 persons and other temporary events of public interest shall be subject to the following;

(1) Documentation must be provided from the County Health Department that adequate arrangement for temporary sanitary facilities has been ensured.

(2) No permanent or temporary lighting shall be installed without an electrical permit and inspection.

(3) All uses shall be confined to those dates specified in the permit.

- (4) Hours of operation shall be confined to those specified in the permit.
- (5) The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within 30 15 days after the closing event.
- (6) Public parking for the exclusive use of the facility shall be provided. It shall be the responsibility of the applicant to make arrangements to guide traffic to these areas and to prevent patrons from parking unlawfully.
- (7) Maximum number of permits issued for a specific parcel or parcels limited to six (6) per year.
- (8) No activity involving the use of any means of sound amplification within 500 feet of a residence shall be permitted between the hours of 11:00 p.m. and 9:00 a.m.
- (9) The applicant shall provide a plan for adequate fire protection as approved by the Tallahassee Fire Prevention Office.
- (10) The applicant shall provide a plan for adequate law enforcement as approved by the Sheriff's Office, which plan may include assignment of law enforcement officers as deemed necessary, with the applicant bearing the costs of such officers.
- (11) The Tallahassee Fire Prevention Office and the Leon County Sheriff's Office shall evaluate each request for a temporary use permit and make recommendations to the County Administrator or designee prior to the issuance of the permit.
- (12) The applicant shall certify that the County is held harmless for any liability associated with the temporary use or activity as a part of the temporary use permit application.
- (13) Any temporary permit issued pursuant to the provisions of this section shall be revoked by the County Administrator or designee and the event closed by the Sheriff's Office immediately upon discovery that the applicant is in violation of the permit or any condition of permit approval.
- (14) If any temporary permit issued pursuant to the provisions of this section is revoked, the County Administrator or designee may use that violation as grounds for denial of future permits to an applicant.

Section 2. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan or the Florida Building Code as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan and the Florida Building Code.

Section 3. Severability. If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Effective Date. This Ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY THE Board of County Commissioner of Leon County, Florida this ____ day of ____, 2003.

LEON COUNTY, FLORIDA

BY: _____
TONY GRIPPA, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:
BOB INZER, CLERK OF THE COURT
BY: _____
CLERK

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

BY: _____
HERBERT W. A. THIELE, ESQ.
COUNTY ATTORNEY